



**DEPARTMENT OF FORESTRY AND FIRE PROTECTION
OFFICE OF THE STATE FIRE MARSHAL**

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**Office of the State Fire Marshal
Aboveground Petroleum Storage Act Advisory Committee**

Meeting Minutes

Meeting Date: January 26, 2016
Meeting Time: 1:30 pm – 3:30 pm
Meeting Location: Office of the State Fire Marshal, Training Conference Room
1131 S Street
Sacramento, California 95811

Staff Present:

Greg Andersen, Division Chief
Jennifer Lorenzo, Senior Environmental Scientist, Committee Chair
Jenna Yang, Environmental Scientist

Members Present:

Ryan Bailey,* Sacramento County Environmental Management Certified Unified Program Agency (CUPA)
Armand Delgado,* Verizon Wireless
Tom Ellison,* Kern County Fire Department
Rich Erickson,* Donlee Pump Company
Craig Fletcher, Fletcher Consultants, Inc.
Andrea Fox,* California Farm Bureau Federation
Wayne Geyer,* Steel Tank Institute (STI)
David Harris,* Donlee Pump Company
Robert Marshall,* Contra Costa County Fire Protection District
Jay McKeeman, California Independent Oil Marketers Association
Ernie Medina,* Bakersfield Fire Department CUPA
Vince Mendes,* Fresno County Environmental Health CUPA
John Paine,* California Environmental Protection Agency (CalEPA)
Sande Pence,* San Diego County Environmental Health CUPA
Pete Reich,* U.S. Environmental Protection Agency (US EPA)
Randy Sawyer,* (Co-Chair), Contra Costa County Hazardous Materials CUPA
Nancy Schlotthauer,* San Bernardino County Fire District CUPA
Todd Tamura,* Tamura Environmental, Inc. (Consultant to Western States Petroleum Association [WSPA])
Jim Whittle,* Shasta County Environmental Health CUPA
Janice Witul,* US EPA
Patrick Wong, Pacific Gas and Electric (PG&E)

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Guests Present:

Christina Graulau,* U.S. Department of the Navy
Jeremy Gates, * Riverside Environmental Health CUPA
Janet Bell,* Metropolitan Water

* *Via Conference Call*

Members Absent:

Jason Boetzer, Calaveras County Environmental Health CUPA
Kevin Buchan, WSPA
Philip Gairson, Southern California Fire Prevention Officers (FPO)
Michael Huber, U.S. Department of the Navy
Stacey Miner, Walmart
Jason Rizzi, Northern California FPO

I. Call to Order

Committee Chair, Jennifer Lorenzo, called the meeting to order at 1:33 p.m. and welcomed everyone to the meeting.

II. Roll Call and Introductions

Jenna Yang conducted the roll call and it was determined that a quorum was present. Attendees and guests introduced themselves.

III. Approval of Minutes

Minutes from the meeting on October 8, 2015, were reviewed. Nancy Schlotthauer suggested a minor grammatical edit to the minutes. Rich Erickson motioned to approve the minutes as amended and Jay McKeeman seconded the motion. All members were in favor and none opposed.

IV. Review of Action Items from October 8, 2015

Completed Action Items

1. Violation Library for the Aboveground Petroleum Storage Act (APSA) Program
2. APSA factsheet/guide on tanks in underground areas and farms (available on the [OSFM APSA website](#))
3. Sent to the Committee, the express terms of proposed APSA regulations (refer to attachment) and the US EPA Water Resources Reform and Development Act (WRRDA) [fact sheet](#) and [study](#)
4. Sent to Jay McKeeman, Office of the State Fire Marshal (OSFM), Code Development and Analysis, Division Chief contact information

Ongoing Action Items

1. Violation Classification for the APSA program
2. APSA Frequently Asked Questions (FAQ)
3. APSA Basic Inspector Training

V. Old Business – Workgroup Updates

A. Regulations

OSFM has not yet completed APSA regulations; so, the package has not been submitted to the Office of Administrative Law (OAL). Changes made to the proposed regulations text are due to Senate Bill (SB) 612 (Jackson, Chapter 452, Statutes of 2015). April is the new estimated date for the completion of the regulations package (for submittal to OAL).

Jay McKeeman had some concerns about new additions to the regulations text. The Committee Chair stated that the language Mr. McKeeman was concerned about was taken straight from the statute pursuant to the changes made by SB 612.

Tanks in Underground Areas

The Tanks in Underground Areas regulations will be in the California Fire Code (CFC), Title 24, Part 9. The CUPAs will not be able to enforce the CFC; however, SB 612 provides the statutory authority for CUPAs to ensure that tanks in underground areas have direct viewing or have secondary containment and leak detection.

The workgroup is trying to meet every week or every other week to work on the regulations. The State Water Resources Control Board (State Water Board) is working closely with the workgroup and has raised some questions to ensure that the text of the regulations is within the scope of OSFM's authority. For example, the statute does not provide authority to require existing piping systems to be retroactively installed with secondary containment and leak detection. Although this is already a requirement under underground storage tank (UST) laws, under the fire code, this would be considered a retroactive requirement in which OSFM does not have the authority to require. Those systems will continue to be regulated as UST systems unless they want to change their system and install the required secondary containment and leak detection. Facilities with tanks in an underground area that has a storage capacity of 55 gallons or more, but have less than an aggregate of 1,320 gallons of petroleum can become regulated under APSA.

Sande Pence went over the OSFM guidance document, “Guide to Understanding Tanks in Underground Areas per SB 612”, which gives an overview and timeline of tanks in underground areas that are currently regulated under APSA and when other types of tanks in underground areas will become subject to APSA. The State Water Board also has a flowchart that compliments the OSFM guidance document. Ms. Pence and Randy Sawyer clarified that the CUPA Forum Board does not have any plans to introduce legislative changes for this coming cycle.

The deadline for this package is the end of March. This will be submitted to the Building Standards Commission as a supplement to the 2016 CFC and will become effective July 1, 2018.

Ryan Bailey commented that facilities are reporting mixtures with very small quantities of oil. Since CERS only allows 5 digits, Mr. Bailey was wondering if there has been any dialogue to address when the mixtures are so small that they round to zero. Ms. Pence stated that SB 612 removed the 5 percent petroleum language from the Tank Facility Statement. She also added that when the definition of petroleum in the statute references a “fraction” of petroleum, it is not talking about percentage of petroleum in a mixture, but the conventional petroleum fraction. The Committee Chair added that facilities should not submit facility diagrams that disclose exact locations of the hazardous materials since it will become subject to public records requests.

B. APSA Violation Classification

Jenna Yang provided an update on the APSA Violation Library project. There has not been much work done on OSFM’s side since the last Committee meeting because OSFM had already finished the updates and had a legal review completed. On November 18, 2015, OSFM sent the updated APSA Violation Library to CalEPA. There was a final workgroup meeting on November 30, 2015, in which each subgroup confirmed their final Violation Library updates. There have not been any meetings scheduled since. John Paine added that they are currently facing certain obstacles such as the mapping of violations in CUPA databases and the need to update the inspection checklists that were created by the CUPA Forum Board. CalEPA has set up a meeting with the Enforcement Steering Committee to address these obstacles.

The APSA violation classification is still a work in progress and may be something that is delegated to the APSA Technical Advisory Group (TAG). The violation classification project started under the APSA working group and is consistent with the US EPA inspection checklist but was never included in CalEPA’s 2006 violation guidance. It still needs to be updated.

C. APSA FAQ

The APSA FAQ document is still a work in progress. OSFM has been working on other guidance documents and recently published two documents to the [OSFM APSA website](#). First is the [Tanks in Underground Areas guidance](#) and the second is a [factsheet on APSA farms regarding SB 612 changes](#). The farm factsheet has been reviewed by other APSA inspectors and US EPA. US EPA has completed the study required under WRRDA and the rulemaking group has recently started to meet.

F. APSA Training

Jenna Yang provided an update on the APSA Basic Inspector Training. The workgroup has met twice since November. There are 20 modules proposed at the moment, with two modules being completely new. The first drafts for 17 of the 20 modules have been completed. The workgroup is now going through a “consistency” review at a smaller scale with a few workgroup members. After the review, the workgroup member will go back and finalize the modules by inserting photos and creating a script. The project is set to have all modules completed by June 2016. Once OSFM figures out if the training program will be hosted in-house or with outside vendors, the workgroup can start working on the Policies and Procedures which will address questions such as: who can take the training, how often a student can take the exam, and the costs for the training. The final deadline to complete the project and have it removed from San Diego CUPA is September 2016.

VI. New Business

A. OSFM Staffing

At the end of October, OSFM had a vacancy for a Senior Environmental Scientist (Specialist). The position was posted in November, applications were reviewed in December, and interviews were conducted in January. OSFM is hoping to fill the position very soon, pending approval from the Human Resources Department. OSFM will also gain a new staff after the regulations for tanks in underground areas are adopted. John Paine stated that OSFM will need to coordinate with CalEPA in regard to the new staff so that the APSA surcharge can be adjusted accordingly.

B. Office of Spill Prevention and Response

The Office of Spill Prevention and Response (OSPR) has requirements for certain inland oil facilities that are within a quarter mile of waters of the state to develop oil spill contingency plans and have a certificate of financial responsibility. There are however, certain exemptions to these requirements, including an exemption for APSA regulated facilities. An exempt facility would need to send an exemption request letter to obtain the exemption. OSFM is still trying to gain more information

on this new program. Jay McKeeman commented that it would be beneficial to have an OSPR representative present at the next Committee meeting to discuss their program.

C. CUPA Conference

The APSA TAG will be meeting for the first time at the CUPA Conference at 7AM on February 24th. Jim Whittle is the Chair for the group. There are also many classes available under the APSA track that is recommended for anyone attending the conference.

VII. Open Forum and Public Comments

The Committee Chair asked the members and guests to discuss additional items, issues or concerns, if they had any. Sande Pence asked for a review of the timeline for when the regulations package will be complete. Jennifer Lorenzo stated that the California Code of Regulations, Title 24 regulation package has a due date for the end of March. That submittal will consist of submitting the text of the regulations, the initial statement of reasons, and any fiscal or economic impact to the Building Standards Commission. The APSA regulations that will be in the California Code of Regulations, Title 19, Division 1 has a due date for the end of April. John Paine asked if the Committee will get a chance to take a look at the regulation packages before they are complete. The Committee Chair stated that an emergency session or an earlier Committee meeting will be needed in order to have the Committee review the regulation packages.

VIII. Action Items

1. Send the OSFM Tanks in an Underground Area table fact sheet and State Water Board flow chart to the Committee
2. APSA FAQ
3. APSA Basic Inspector Training – Continue to update modules and complete bid package

IX. Schedule Next Meeting and Adjourn

The next meeting will be scheduled for the end of March or the first week of April. The Committee Chair will send out a “Doodle” poll to the members to find the best available date.

The meeting was adjourned by the Committee Chair at 3:09 p.m.

ATTACHMENT

DRAFT

California Code of Regulations

Title 19 Public Safety Code

Division 1

Chapter 15

Aboveground Petroleum Storage Act Program

Articles 1-7

Sections 2150.00-2210.00

ARTICLE 1 ADMINISTRATION

2150.00 AUTHORITY

California Code of Regulations, Title 19, Division 1, Chapter 15 is adopted by the Office of the State Fire Marshal under the authority of the Health and Safety Code, Division 20, Chapter 6.67, Section 25270.4.1.

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.
Reference: Section 25270.4.1(a), (c) and (d), Health and Safety Code.

2150.01 TITLE

These regulations shall be known as the "Regulations for the Aboveground Petroleum Storage Act (APSA)," may be cited as such, and will be hereinafter referred to as "these regulations."

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.
Reference: Sections 25270 and 25270.4.1(a), Health and Safety Code.

2150.02 PURPOSE

The purpose of these regulations is to implement the Aboveground Petroleum Storage Act which requires tank facilities in California, as described in Health and Safety Code Section 25270.3, to comply with the requirements of the spill prevention, control, and

countermeasure (SPCC) plan specified under the Code of Federal Regulations, Title 40, Chapter I, Subchapter D, Part 112 (commencing with Section 112.1).

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.
Reference: Sections 25270.3 and 25270.4, Health and Safety Code.

2150.03 SCOPE

(a) Except as otherwise provided in the exemptions described in Sections 2150.04, 2150.05 and 2150.06, these regulations apply to all tank facilities and Unified Program Agencies as specified in Health and Safety Code Sections 25270.3 and 25270.4.

(b) A tank facility is subject to these regulations if any of the following apply:

(1) The tank facility is subject to the oil pollution prevention regulations specified in the Code of Federal Regulations, Title 40, Part 112 (commencing with Section 112.1).

(2) The tank facility has a total aggregate storage capacity of 1,320 gallons or more of petroleum as described in Health and Safety Code Section 25270.3(b).

(3) The tank facility has a storage capacity of less than 1,320 gallons of petroleum and has one or more tanks in an underground area meeting the conditions specified in Health and Safety Code Section 25270.2(o)(1). If this subsection is applicable, only tanks meeting the conditions specified in Health and Safety Code Section 25270.2(o)(1) shall be included as storage tanks and subject to these regulations.

(c) These regulations apply to the protection of the natural resources of the State of California, including navigable waters of the United States as defined in the Code of Federal Regulations Title 40, Part 112.

Note: Authority Cited: Sections 25270.4.1(a) and (d), and 25270.4.5(a), Health and Safety Code.

Reference: Sections 25270.3, 25270.4, 25270.4.1(a) and (d), and 25270.4.5(a), Health and Safety Code; and Section 1321(o), Chapter 26, Title 33, United States Code.

2150.04 FEDERAL SPCC EXCLUSIONS

Facilities, tanks and equipment that are exempt from the Code of Federal Regulations, Title 40, Part 112 as described in the Code of Federal Regulations, Title 40, Section 112.1(d)(1)(ii) through (d)(12) are exempt from these regulations.

EXCEPTIONS:

(1) A tank in an underground area as defined in Health and Safety Code Section 25270.2(o) is not exempt from this chapter even if exempt under the Code of Federal Regulations, Title 40, Section 112.1(d)(4).

(2) A tank facility with an aggregate storage capacity of 1,320 gallons of petroleum is not exempt from this chapter even if exempt under the Code of Federal Regulations, Title 40, Section 112.1(d)(2)(ii).

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.
Reference: Sections 25270.2(a) and (o), and 25270.4.1(d), Health and Safety Code;
and Section 112.1, Part 112, Title 40, Code of Federal Regulations.

2150.05 STATUTORY EXCLUSIONS

The tank facilities, tanks and equipment listed in Health and Safety Code Section 25270.2 (a)(1) through (7) are not subject to these regulations.

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.
Reference: Section 25270.2(a), Health and Safety Code.

2150.06 For purposes of clarification, Health and Safety Code Section 25270.2(a)(1) through (7) is repeated.

(1) A pressure vessel or boiler that is subject to Part 6 (commencing with Section 7620) of Division 5 of the Labor Code.

(2) A tank containing hazardous waste or extremely hazardous waste, as respectively defined in Sections 25117 and 25115, if the Department of Toxic Substances Control has issued the person owning or operating the tank a hazardous waste facilities permit for the storage tank.

(3) An aboveground oil production tank that is subject to Section 3106 of the Public Resources Code.

(4) Oil-filled electrical equipment, including, but not limited to, transformers, circuit breakers, or capacitors, if the oil-filled electrical equipment meets either of the following conditions:

(A) The equipment contains less than 10,000 gallons of dielectric fluid.

(B) The equipment contains 10,000 gallons or more of dielectric fluid with PCB levels less than 50 parts per million, appropriate containment or

diversionary structures or equipment are employed to prevent discharged oil from reaching a navigable water course, and the electrical equipment is visually inspected in accordance with the usual routine maintenance procedures of the owner or operator.

(5) A tank regulated as an underground storage tank under Chapter 6.7 (commencing with Section 25280) of the Health and Safety Code and Chapter 16 (commencing with Section 2610) of Division 3 of Title 23 of the California Code of Regulations and that does not meet the definition of a tank in an underground area.

(6) A transportation-related tank facility, subject to the authority and control of the United States Department of Transportation, as defined in the Memorandum of Understanding between the Secretary of Transportation and the Administrator of the United States Environmental Protection Agency, as set forth in Appendix A to Part 112 (commencing with Section 112.1) of Subchapter D of Chapter I of Title 40 of the Code of Federal Regulations.

(7) A tank or tank facility located on and operated by a farm that is exempt from the federal spill prevention, control, and countermeasure rule requirements pursuant to Part 112 (commencing with Section 112.1) of Subchapter D of Chapter I of Title 40 of the Code of Federal Regulations.

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.
Reference: Sections 25270.2(a) and 25270.4.1(d), Health and Safety Code.

ARTICLE 2 DEFINITIONS

2160.00 DEFINITIONS

(a) The following terms used in this chapter shall have the definitions provided in the Code of Federal Regulations, Title 40, Chapter 1, Subchapter D, Part 112, Section 112.2 unless the terms have already been defined in Health and Safety Code, Division 20, Chapter 6.67, Section 25270.2.

(1) Adverse weather

(2) Alteration

(3) Animal Fat

(4) Breakout tank

- (5) Bulk storage container
- (6) Bunkered tank
- (7) Completely buried tank
- (8) Complex
- (9) Contiguous zone
- (10) Contract or other approved means
- (11) Discharge
- (12) Facility
- (13) Farm
- (14) Fish and wildlife and sensitive environments
- (15) Injury
- (16) Loading/unloading rack
- (17) Maximum extent practicable
- (18) Mobile refueler
- (19) Motive power container
- (20) Navigable waters of the United States
- (21) Non-petroleum oil
- (22) Offshore facility
- (23) Oil
- (24) Oil-filled operational equipment
- (25) Oil Spill Removal Organization
- (26) Onshore facility
- (27) Owner or operator
- (28) Partially buried tank
- (29) Permanently closed

(30) Petroleum oil

(31) Produced water container

(32) Production facility

(33) Regional Administrator

(34) Repair

(35) Spill Prevention, Control, and Countermeasure Plan; SPCC Plan, or Plan

(36) Storage capacity of a container

(37) Transportation-related and non-transportation-related

(38) United States

(39) Vegetable oil

(40) Vessel

(41) Wetlands

(42) Worst case discharge

(b) The following terms shall have the definitions provided in Health and Safety Code, Division 20, Chapter 6.67, Section 25270.2.

(1) Aboveground storage tank or storage tank

(2) Board

(3) Certified Unified Program Agency or CUPA

(4) Office

(5) Operator

(6) Owner

(7) Person

(8) Participating Agency or PA

(9) Petroleum

(10) Regional board

(11) Release

(12) Secretary

(13) Storage or store

(14) Storage capacity

(15) Tank facility

(16) Tank in an underground area

(17) Unified Program Agency or UPA

(c) The following term shall have the definition provided in Health and Safety Code, Division 20, Chapter 6.11, Section 25404(a)(3).

(1) Minor violation

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.
Reference: Sections 25270.2, 25270.4.1(a), (c) and (d), and 25404(a), Health and Safety Code; and Section 112.2, Part 112, Title 40, Code of Federal Regulations.

ARTICLE 3 GENERAL PROVISIONS

2170.00 IMPLEMENTATION

(a) Tank facility owners or operators subject to Health and Safety Code, Chapter 6.67 shall prepare and implement an SPCC plan to address discharges or releases.

(b) These regulations shall be applied by the Unified Program Agency (UPA) in a manner that is consistent with the Code of Federal Regulations, Title 40, Part 112. As part of inspections conducted pursuant to Sections 2180.00(b), 2180.02, and 2180.03(a), the UPA shall review SPCC plans, and any updates thereto, prepared pursuant to these regulations to determine whether they contain all of the information required by the Code of Federal Regulations, Title 40, Part 112. In conducting inspections pursuant to Sections 2180.00(b), 2180.02, and 2180.03(a), the UPA shall determine whether such plans are being implemented in compliance with the Code of Federal Regulations, Title 40, Part 112.

(c) The UPA is not authorized under these regulations to evaluate the provisions and recommendations contained in an SPCC plan independent from the provisions of the Code of Federal Regulations, Title 40, Part 112, but the UPA is authorized to review the

Plan to ensure that it complies with the Code of Federal Regulations, Title 40, Part 112 and is implemented in accordance with the Code of Federal Regulations, Title 40, Part 112. In carrying out its responsibilities under this chapter, the UPA shall request additional information from the owner or operator of the tank facility if necessary to verify that the Plan meets the abovementioned federal requirements and that the owner or operator is implementing the Plan as written.

(d) In accordance with the Code of Federal Regulations, Title 40, Sections 112.7(c)(1)(i) and 112.8(c)(2), any containment systems that are required must be sufficiently impervious to contain oil such that the entire containment system, including walls and floor, must be capable of containing oil and must be constructed so that any discharge from a primary containment system, such as a tank, will not escape the containment system before cleanup occurs. Systems that meet the applicable requirement of being sufficiently impervious to contain oil with respect to the Code of Federal Regulations, Title 40, Sections 112.7(c)(1)(i) and/or 112.8(c)(2) also meet that requirement with respect to the Aboveground Petroleum Storage Act and these regulations.

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.
Reference: Sections 25270.4.1, 25270.4.5(a), and 25270.5, Health and Safety Code.

2170.01 SPCC PLAN IMPLEMENTATION AND CONDITIONAL EXEMPTION

2170.02 For purposes of clarification, Health and Safety Code, Chapter 6.67, Section 25270.4.5 is repeated.

(a) Except as provided in subdivision (b), each owner or operator of a storage tank at a tank facility subject to this chapter shall prepare a spill prevention control and countermeasure plan applying good engineering practices to prevent petroleum releases using the same format required by Part 112 (commencing with Section 112.1) of Subchapter D of Chapter I of Title 40 of the Code of Federal Regulations, including owners and operators of tank facilities not subject to the general provisions in Section 112.1 of those regulations. Each owner or operator specified in this subdivision shall conduct periodic inspections of the storage tank to ensure compliance with Part 112 (commencing with Section 112.1) of Subchapter D of Chapter I of Title 40 of the Code of Federal Regulations. In implementing the spill prevention control and countermeasure plan, each owner or operator specified in this subdivision shall fully comply with the latest version of the regulations contained in Part 112 (commencing with Section 112.1) of Subchapter D of Chapter I of Title 40 of the Code of Federal Regulations.

(b) A tank facility located on and operated by a farm, nursery, logging site, or construction site is not subject to subdivision (a) if no storage tank at the location exceeds 20,000 gallons and the cumulative storage capacity of the tank facility does not exceed 100,000 gallons. Unless excluded from the definition of an “aboveground storage tank” in Section 25270.2, the owner or operator of a tank facility exempt pursuant to this subdivision shall take the following actions:

(1) Conduct a daily visual inspection of any storage tank storing petroleum. For purposes of this section, “daily” means every day that the contents are added to or withdrawn from the tank, but no less than five days per week. The number of days may be reduced by the number of state or federal holidays that occur during the week if there is no addition to, or withdrawal from, the tank on the holiday. The unified program agency may reduce the frequency of inspections to not less than once every three days at a tank facility that is exempt pursuant to this section if the tank facility is not staffed on a regular basis, provided that the inspection is performed every day the facility is staffed.

(2) Allow the UPA to conduct a periodic inspection of the tank facility.

(3) If the UPA determines installation of secondary containment is necessary for the protection of the waters of the state, install a secondary means of containment for each tank or group of tanks where the secondary containment will, at a minimum, contain the entire contents of the largest tank protected by the secondary containment plus precipitation.

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.
Reference: Section 25270.4.5, Health and Safety Code.

2170.03 AGGREGATE STORAGE CAPACITY OF A TANK FACILITY

For purposes of these regulations, the aggregate storage capacity shall include aboveground storage tanks and containers with a shell capacity of 55 U.S. gallons or greater including, but not limited to, bulk storage containers (for example, drums, intermediate bulk containers and totes), mobile refuelers, oil-filled operational equipment, and oil-filled manufacturing equipment, as described in the Code of Federal Regulations Title 40, Section 112.2. The aggregate storage capacity shall not include capacity calculations from exemptions and exclusions identified in Sections 2150.04, 2150.05, and 2150.06.

Note: Authority cited: Section 25270.4.1(a) Health and Safety Code.

Reference: Sections 25270.4.1(a), (c) and (d), 25270.2(a)(1) through (6), Health and Safety Code; and Section 112.1, Part 112, Title 40, Code of Federal Regulations.

ARTICLE 4 UPA INSPECTIONS

2180.00 COMPLIANCE VERIFICATIONS AND INSPECTIONS

(a) At least once every three years, the UPA shall, at a minimum, verify that each tank facility has a current SPCC plan in place that has been reviewed and/or certified as specified in the Code of Federal Regulations, Title 40, Part 112. The UPA will verify that each tank facility subject to these regulations is conducting periodic inspections of their storage tanks to ensure compliance with the Code of Federal Regulations, Title 40, Part 112.

(b) At least once every three years, the UPA shall inspect each tank in an underground area at a tank facility to verify that the tank facility's SPCC plan is being implemented in accordance with the Code of Federal Regulations, Title 40, Part 112, and that each tank in an underground area meets the requirements of Health and Safety Code, Chapter 6.67, Section 25270.2(o).

EXCEPTION: This section shall not apply to tank facilities that meet the conditions described in Section 2170.02(b).

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.

Reference: Section 25270.4.5(b), 25270.5, and Section 25270.2(o), Health and Safety Code.

2180.01 STATUTORY INSPECTIONS

2180.02 For purposes of clarification, Health and Safety Code, Chapter 6.67, Section 25270.5(a) and (b) is repeated.

(a) Except as provided in subdivision (b), at least once every three years, the UPA shall inspect each storage tank or a representative sampling of the storage tanks at each tank facility that has a storage capacity of 10,000 gallons or more of petroleum. The purpose of the inspection shall be to determine whether the owner or operator is in compliance with the spill prevention control and countermeasure plan requirements of this chapter.

(b) The UPA may develop an alternative inspection and compliance plan, subject to approval by the secretary and the office.

EXCEPTION: This section shall not apply to tank facilities that meet the conditions described in Section 2170.02(b).

Note: Authority cited: Section 25270.4.1(a) and 25270.4.5(a), Health and Safety Code. Reference: Sections 25270.4.5(a) and (b), and 25270.5, Health and Safety Code.

2180.03 OPTIONAL INSPECTIONS

(a) The UPA may inspect tank facilities with a total aggregate storage capacity of less than 10,000 gallons of petroleum to ensure that the tank facilities have prepared and are implementing an SPCC plan in accordance with the Code of Federal Regulations, Title 40, Part 112.

EXCEPTION: This section shall not apply to tank facilities that meet the conditions described in Section 2170.02(b).

(b) The UPA may inspect tank facilities conditionally exempt under Section 2170.02(b) to verify compliance with the conditions of the exemption.

Note: Authority cited: Sections 25270.4, 25270.4.1(a), 25270.4.5(b)(2), and 25270.13(a), Health and Safety Code. Reference: Sections 25270.4, 25270.4.5(a) and (b)(2), and 25270.13(a), Health and Safety Code.

2180.04 INSPECTION REPORTS

The inspector shall, if the owner or operator or authorized representative is present, prior to leaving the tank facility, discuss the findings of the inspection and any questions or concerns that the owner or operator or authorized representative might have regarding the inspection. Within five business days after the conclusion of an inspection, the inspector shall provide to the owner or operator or authorized representative of the tank facility an initial summary of all violations or the final inspection report, including applicable citations alleged by the inspector. If not provided within five business days of the inspection, the final inspection report shall be provided within 30 calendar days after the inspection.

Note: Authority cited: Section 25270.4.1(a) Health and Safety Code. Reference: Sections 25270.4, 25270.4.5(a), 25270.5(a) and 25185(c)(1), Health and Safety code.

2180.05 NOTICE TO COMPLY

2180.06 For purposes of clarification, Health and Safety Code, Chapter 6.11, Section 25404.1.2(a), (b), (c), (d), and (e) is repeated.

- (a) (1) An authorized representative of the UPA, who in the course of conducting an inspection, detects a minor violation, shall take an enforcement action as to the minor violation only in accordance with this section.
(2) In any proceeding concerning an enforcement action taken pursuant to this section, there shall be a rebuttable presumption upholding the determination made by the UPA regarding whether the violation is a minor violation.
- (b) A notice to comply shall be the only means by which a UPA may cite a minor violation, unless the person cited fails to correct the violation or fails to submit the certification of correction within the time period prescribed in the notice, in which case the UPA may take any enforcement action, including imposing a penalty, as authorized by this chapter.
- (c) (1) A person who receives a notice to comply detailing a minor violation shall have not more than 30 days from the date of the notice to comply in which to correct any violation cited in the notice to comply. Within five working days of correcting the violation, the person cited or an authorized representative shall sign the notice to comply, certifying that any violation has been corrected, and return the notice to the UPA.
(2) A false certification that a violation has been corrected is punishable as a misdemeanor.
(3) The effective date of the certification that any violation has been corrected shall be the date that it is postmarked.
- (d) If a notice to comply is issued, a single notice to comply shall be issued for all minor violations noted during the inspection, and the notice to comply shall list all of the minor violations and the manner in which each of the minor violations may be brought into compliance.
- (e) If a person who receives a notice to comply pursuant to subdivision (a) disagrees with one or more of the alleged violations listed on the notice to comply, the person shall provide the UPA a written notice of disagreement along with the returned signed notice to comply. If the person disagrees with all of the alleged violations, the written notice of disagreement shall be returned in lieu of the signed certification of correction within 30 days of the date of issuance of the notice to comply. If the issuing agency takes

administrative enforcement action on the basis of the disputed violation, that action may be appealed in the same manner as any other alleged violation under Section 25404.1.1.

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.

Reference: Sections 25270.4.1(c) and 25404.1.2(b), (c), (d) and (e), Health and Safety Code.

2180.07 ENFORCEMENT

The UPA may pursue enforcement for class I or class II violations as described in Health and Safety Code, Chapter 6.11, Section 25404(a)(3) through an administrative penalty pursuant to Health and Safety Code Section 25270.12.1, an administrative enforcement order pursuant to Health and Safety Code Section 25404.1.1, a civil penalty pursuant to Health and Safety Code Section 25270.12, or as a misdemeanor pursuant to Health and Safety Code Section 25270.12.5.

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.

Reference: Sections 25270.2(c)(3)(A), 25270.4, 25270.4.1(c), 25270.12, 25270.12.1, 25270.12.5, 25404(a)(3), 25404.1.1, and 25404.2, Health and Safety Code.

ARTICLE 5 UPA TRAINING

2190.00 UPA STAFF TRAINING

UPAs shall provide refresher training for UPA staff who conduct inspections at tank facilities with a total aggregate storage capacity of 10,000 gallons or more of petroleum and tank facilities inspected pursuant to 2180.00(b) to maintain knowledge of applicable federal and state laws and regulations regarding APSA facilities. Training topics may include, but not be limited to, those covered in an aboveground storage tank training program or any other generally accepted industry practices.

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.

Reference: Section 25270.5, Health and Safety Code.

ARTICLE 6 REPORTING REQUIREMENTS

2200.00 TANK FACILITY ELECTRONIC DATA REPORTING

(a) Regardless of whether a tank facility statement is submitted pursuant to Health and Safety Code Section 25270.6(a), the owner or operator of a tank facility shall submit the

following information electronically to the statewide information management system by the first day of January following the date that the statewide information management system is capable of receiving these data, and, thereafter, annually review and certify that the information in the statewide information management system is complete, accurate, and up to date. Review of this information in conjunction with the annual review and certification of hazardous materials business plan information in accordance with Health and Safety Code, Chapter 6.95, Section 25508.2 satisfies this requirement.

(1) Date of SPCC plan certification or most current 5-year review, whichever is more recent;

(2) Total aggregate storage capacity of a tank facility in gallons of petroleum (as specified in Section 2170.03); and

(3) Number of tanks in an underground area as defined in Health and Safety Code Section 25270.2(o).

(b) Each UPA shall verify that a tank facility has submitted the information listed under subsection (a).

EXCEPTION: This section shall not apply to tank facilities that meet the conditions described in Section 2170.02(b).

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.
Reference: Sections 25270.2(m) and (o), 25270.4.1(d), 25270.4.5(a) and (b), 25270.6(a), 25404(e)(4) and 25508.2, Health and Safety Code.

2200.01 TANK FACILITY STATEMENT

Aboveground petroleum storage as reported within the chemical inventory of a hazardous materials business plan shall satisfy the requirement for the submittal of an annual tank facility statement pursuant to Health and Safety Code, Chapter 6.67, Section 25270.6(a).

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.
Reference: Sections 25270.4.1(c) and 25270.6(a)(2), Health and Safety Code.

ARTICLE 7 AGENCY COORDINATION

2210.00 UPA COORDINATION WITH REGIONAL WATER BOARD

If the UPA determines that cleanup or abatement of a release from an aboveground storage tank at a tank facility is required, or additional investigation is necessary to determine if cleanup is required, then the UPA shall notify and coordinate with the Regional Water Quality Control Board on investigation, cleanup or abatement activities.

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.

Reference: Sections 25270.4, 25270.9 and 25270.13(b), Health and Safety Code.

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